

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1071 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMESHKUMAR MAGANLAL PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR PM THAKKAR for Petitioner

MR KM PATEL for Respondent No. 1

NOTICE SERVED for Respondent No. 3

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 28/08/98

ORAL JUDGEMENT

1. This petition came to be filed by the petitioner in year 1986 with a view to challenge the orders dated

31st August 1985 (Annexure 'E' to the petition), terminating the service of the petitioner as an Assistant under the respondent No.3. Rule came to be given under the orders dated February 21, 1986. Ad interim relief was very limited to the extent that if any appointment is made in the post of Assistant under respondent No.3, it shall be expressly made subject to the result of the petition.

2. When now this petition reaches for final hearing before me in August 1998, learned counsel Mr.K.M.Patel who appears for the respondents No. 2 and 3 places on record the orders passed by the Labour Court, Vadodara in Reference No. 331/86 dated July 26, 1989. This copy of the orders would go to show that the reference taken out by the petitioner came to be disposed of for the non-prosecution. There is nothing on record warranting conclusion that the abovesaid orders came to be challenged or anything further has happened in favour of the petitioner.

3. In view of this, now it appears that the present petition requires to be dismissed. I order accordingly. Rule shall stand discharged. Limited ad interim relief shall also stand vacated. No costs.

4. Copy of the orders being presented by learned counsel Mr.K.M.Patel be retained on record.

5. Before parting, the reference is required to be made to the Supreme Court pronouncement in Himansu Kumar Vidyarthi and others v/s State of Bihar and others (1997)4 SCC 391. A view has been taken that the daily wage employees have no right to the post and that the daily wagers are being appointed according to the need of the work and that they have no right to the post. Looking to the facts of the case, this pronouncement of the Supreme Court also gets attracted to the same. The dismissal of the petition appears to be justifiable on this ground also.

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